

1 ANDRÉ BIROTTE JR.
United States Attorney
2 DENNISE D. WILLETT
Assistant United States Attorney
3 Chief, Santa Ana Branch Office
TERRI K. FLYNN (Cal. Bar No. 204932)
4 Assistant United States Attorney
Deputy Chief, Santa Ana Branch Office
5 411 West Fourth Street, Suite 8000
Santa Ana, California 92701
6 Telephone: (714) 338-3592
Facsimile: (714) 338-3561
7 E-mail: Terri.K.Flynn@usdoj.gov

8 Attorneys for Plaintiff
UNITED STATES OF AMERICA
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10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13 UNITED STATES OF AMERICA,) Case No. SA CR 08-223-AG
14 Plaintiff,)
15 v.) GOVERNMENT'S POSITION REGARDING
16 JAGMOHAN S. DHILLON,) SENTENCING
17 Defendant.)
18)
19)

19 Plaintiff United States of America, by and through its
20 counsel of record, Terri K. Flynn, having received and reviewed
21 the Pre-Sentence Report for JAGMOHAN S. DHILLON hereby submits
22 the government's response.

23 Dated: August 9, 2011

Respectfully submitted,

24 ANDRÉ BIROTTE JR.
United States Attorney

25 DENNISE D. WILLETT
Assistant United States Attorney
Chief, Santa Ana Branch Office
26 /s/
27

28 TERRI K. FLYNN
Assistant United States Attorney
Attorneys for Plaintiff
United States of America

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 A. GOVERNMENT'S RESPONSE TO PSR

3 On March 3, 2011, defendant JAGMOHAN S. DHILLON
4 ("defendant") pleaded guilty to count one of the indictment which
5 charged him with conspiracy to distribute cocaine, in violation
6 of Title 21, United States Code, Section 841(a). (Pre-Sentence
7 Report ("PSR") ¶¶ 1-2).

8 The Probation Office has determined that, pursuant to the
9 United States Sentencing Guidelines ("Guidelines"), defendant's
10 offense level is 26. (PSR ¶¶ 30-40). The Probation Office has
11 further determined that defendant's criminal history category is
12 I. (PSR ¶¶ 42-50). Thus, the corresponding sentencing range is
13 63-78 months imprisonment, but defendant pleaded guilty to an
14 offense carrying a mandatory minimum of 120 months. The
15 government had not decided at the time of the preparation of the
16 PSR whether defendant qualified for the safety valve provision.
17 The Probation Office found that if defendant qualified, the
18 revised offense level would be 24 and the range would
19 be 51 to 63 months. (Probation Letter at p. 3.) The Probation
20 Office recommends a sentence of 51 months imprisonment.

21 The government concurs with the Probation Office's
22 recommended Guidelines calculations and sentence. Defendant has
23 met the last prong of the safety valve provision under Section
24 5C1.2. Thus, as the Probation Office determined, defendant's
25 resulting offense level is 24 with a range of 51 to 63 months.
26 The government believes 51 months is the appropriate sentence.

1 B. GOVERNMENT'S POSITION WITH RESPECT TO DEFENDANT'S OBJECTIONS
2 TO THE PSR

3 Defendant makes several objections to the PSR. (Defendant's
4 Sentencing Position at 2-3.) Some of the objections are to
5 references to prior arrests and some of the objections pertain to
6 personal identifiers of the defendant. The defendant asks for
7 these items to either be corrected or removed from the PSR. The
8 government does not believe that these factual issues are
9 necessary to the determination of an appropriate sentence.
10 Therefore, the government believes that the Court can correct and
11 remove from the PSR the material to which defendant objects
12 without further investigation.

13 C. GOVERNMENT'S POSITION WITH RESPECT TO AN APPROPRIATE
14 SENTENCE

15 Defendant argues that an appropriate sentence is a 20 month
16 sentence because defendant has made post-offense rehabilitation
17 efforts and because defendant voluntarily withdrew from the
18 conspiracy. The government believes that a sentence of 51 months
19 adequately takes into account these two factors and is
20 appropriate under all of the Title 18, United States Code,
21 Section 3553(a) factors.

22 Defendant was engaged in a serious narcotics conspiracy.
23 Defendant admitted that he conspired with co-defendant Jason Wei
24 to distribute cocaine and that he transported approximately
25 forty-five kilograms of cocaine from the Los Angeles area with
26 the intent to deliver them to Canada. (Plea Agreement at p. 10-
27 11.) Defendant offloaded the cocaine before entering Canada, but
28 was nevertheless involved in driving the cocaine across the

1 United States. While defendant's involvement in the conspiracy
2 was shortlived, his conduct is serious and deserving of a
3 sentence of incarceration under Section 3553(a). Defendant was
4 given a minor role reduction for his conduct which reduced his
5 Guidelines sentence five-levels. This reduction takes into
6 account his limited role in the conspiracy and that he
7 voluntarily withdrew.

8 Defendant relies on Gall v. United States, 558 U.S. 38
9 (2007) to argue that a lower sentence is warranted. The
10 defendant in Gall, however, was involved in a much less serious
11 conspiracy - a conspiracy to distribute ecstasy within a college
12 town, not an international cocaine conspiracy. The defendant in
13 Gall was also very young (college aged) and obtained his college
14 degree after overcoming his ecstasy addiction. Here, defendant
15 is 38 years old (approximately 34 years old at the time of the
16 offense) and not addicted to narcotics. Defendant, instead, saw
17 a quick way to make money exploiting his truck driving business.
18 He is not similarly situated as the defendant in Gall. That
19 said, defendant's efforts at rehabilitation and his withdrawal
20 from the conspiracy are commendable. These efforts, however, are
21 adequately taken into account by a sentence of 51 months which is
22 reasonable.

23 D. GOVERNMENT'S SENTENCING RECOMMENDATION

24 The government recommends that defendant be:

- 25 (1) sentenced to 51 months imprisonment;
26 (2) placed on supervised release for five years under the
27 terms and conditions recommended by the Probation
28 Office in the PSR; and

(3) ordered to pay a \$100 special assessment.